

JAN 18 2007

REMARKS

Claims 1-9 are now pending, with claims 1, 4 and 9 being the independent claims. Claims 1, 4 and 9 have been amended. No new matter has been added. Reconsideration of the application, as amended, is respectfully requested.

In the Office Action dated October 19, 2006, independent claims 1, 4 and 9, and dependent claims 2, 3 and 5-8 were rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 5,493,610 ("*Suzuki*") in view of U.S. Patent No. 5,367,523 ("*Chang*"). For the following reasons, Applicant respectfully asserts that all claims of the present application are patentable over the cited references.

Independent claims 1 and 4 have been amended to recite that the network is a packet network and that the method is used in VoIP. That is, independent claim 1 has been amended to recite the limitations "a plurality of transceiver units, each of said plural units being operable with variable transfer rates ... wherein said transceiver units comprise a modem for modulating and demodulating non-speech data and a codec for encoding and decoding speech data for voice over Internet protocol". Independent claim 4 has been amended to recite the limitations "transmitting data to and receiving data from a packet network ... and adjusting a transfer rate of a plurality of transceiver units in response to said detected load ... wherein said transceiver unit comprises a modem for modulating and demodulating non-speech data and a codec for encoding and decoding speech data for voice over Internet protocol, and said codec is provided with a higher priority than the modem". No new matter has been added by the foregoing amendments.

Suzuki discloses a circuit multiplex transmission system in which speech/facsimile signals are transmitted. *Suzuki* (Abstract) teaches that the transmission rate of data is controlled by a transmission circuit allocation unit based on the load of the transmission circuit. In addition, *Suzuki* (Fig. 1) teaches a speech encoder/decoder 7 and 13, as well as a fax modem 5. *Suzuki* (col. 6, lines 1-12) describes the transmission circuit. *Suzuki* (col. 10, lines 61-65) states "[the] system is characterized by the facsimile procedure operating unit for operating the facsimile procedure for facsimile transmission to control the base band data transmission rate of the facsimile signals according to the status of a load of the transmission circuit".

Amended independent claims 1 and 4 recite that the network is a packet network. However, the "transmission circuit" described in *Suzuki* is a circuit-switched network. That is, *Suzuki* teaches speech/facsimile transmission over conventional trunk lines, but fails to teach or

suggest a packet network or that VoIP is implemented. *Suzuki* thus fails to teach or suggest amended independent claims 1 and 4. As described in detail in the background section of the instant application, the claimed invention is directed to providing solutions to problems that occur in VoIP, i.e., real-time applications in a packet network. *Suzuki* has nothing to do with this claimed subject matter. *Suzuki* thus fails to teach amended independent claims 1 and 4, since the transmission technology disclosed therein is completely different than the subject matter encompassed by independent claims 1 and 4.

The Examiner acknowledges (Office Action pg. 3) that *Suzuki* differs from the claimed invention in that *Suzuki* fails to teach or suggest adjusting the transmission rate according to the priority. *Chang* has been cited by the Examiner to cure this deficiency of *Suzuki*. *Chang* relates to mechanisms for implementing end-to-end, closed loop, distributed control (see col. 1, lines 9-11). *Chang* (Abstract) teaches adaptive rate-based congestion and flow control in packet communications networks. *Chang* (col. 2, lines 53-64 and col. 8, lines 3-24) teaches that a data rate is varied with respect to a congestion status. *Chang* (col. 6, lines 21-60) also teaches the use of different priority levels (see, specifically, lines 35-48). However, *Chang* fails to cure the deficiency of *Suzuki*, because *Chang* also fails to teach the limitations associated with a network that processes VoIP data. Therefore, the combination of *Suzuki* and *Chang* fails to achieved the claimed invention.

The Office Action (pg. 3) states that:

[The] Examiner notes that the teachings of *Chang* are *not* relied upon to provide a plurality of transceiver units, which comprise a modem and speech codec in the presently claimed invention. The teachings of *Chang* are relied upon to provide the concept of adjusting a transmission rate according to a network congestion status, wherein non-real time data signals receive a lower transmission rate under a congestion condition than real-time voice signals.... (Emphasis Added)

Irrespective of the reason why *Chang* was cited, the issue of whether *Chang* fails to teach or suggest a plurality of different (i.e., each of plural) transceiver units is important, because the fundamental principle, as defined by the amended independent claims, is that different transmission rates are applied to each of a plurality of transceiver units based on the congestion and the priority of each of the plurality of transmission units. Consequently, without this teaching there is nothing to provide the skilled person with the motivation to apply the solution defined by the independent claims to a plurality of transceiver units. It therefore aptly follows

that the structure disclosed in *Chang* (see Fig. 1) clearly fails to provide the plurality of transmission units, recited in amended independent claims 1 and 4. *Chang* merely teaches that only "the" rate is varied. Consequently, *Chang* teaches that each node only has one transmission unit. It is therefore impossible for *Chang* to teach or suggest that different priorities for different transmission units are set, as recited in amended independent claims 1 and 4. Moreover, as conceded by the Examiner (see pg. 6), *Suzuki* fails to teach or suggest the concept associated with different (i.e., each of plural) transceiver units (i.e., a speech encoder or fax modem) having different priorities.

As a result, the deficiencies of the combination of *Suzuki* and *Chang* still remain. In view of the foregoing, amended independent claims 1 and 4 are patentable, reconsideration and withdrawal of the rejections under 35 U.S.C. §103(a) are in order, and a notice to that effect is earnestly solicited.

Independent claim 9 is directed to a device associated with the method of independent claim 1 and the device of independent claim 4. Therefore, independent claim 9 is patentable over *Suzuki* in combination with *Chang* for the reasons discussed above with respect to independent claims 1 and 4.

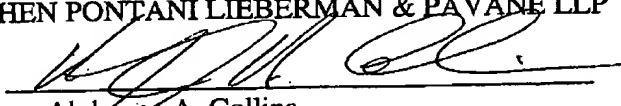
In view of the patentability of independent claims 1, 4 and 9, for the reasons set forth above, dependent claims 2, 3 and 5-8 are all patentable over the prior art.

Based on the foregoing amendments and remarks, this application is in condition for allowance. Early passage of this case to issue is respectfully requested.

It is believed that no fees or charges are required at this time in connection with the present application. However, if any fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,
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